

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TITUS BATES,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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MOTION TO VACATE  
28 U.S.C. § 2255

CRIMINAL ACTION NO:  
1:13-CR-00501-ELR-CMS

CIVIL ACTION NO:  
1:21-CV-01694-ELR-CMS

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**ORDER**

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This matter is before the Court for consideration of Magistrate Judge Catherine M. Salinas' Report and Recommendation ("R&R") [Doc. 281] to deny Movant's *pro se* Motion to Vacate, Set Aside, or Correct Sentence, which Movant filed under 28 U.S.C. § 2255 ("§ 2255 Motion"). [Doc. 265.] In the time-period allotted for the parties to object to the R&R, Movant, proceeding *pro se*, filed objections. [Doc. 286.]<sup>1</sup> For the following reasons, the Court **ADOPTS** the R&R and **OVERRULES** Movant's objections.

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<sup>1</sup> Movant's objections are filed at both, Doc. 285 and 286. Upon comparison of the two documents, the Court concludes they are the same.

## I. Standard of Review

The district court reviewing an R&R “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). If neither party objects, the district judge need only review the R&R for clear error and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* A party objecting to an R&R “must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” United States v. Schultz, 565 F.3d 1353, 1361 (11<sup>th</sup> Cir. 2009) (quoting Marsden v. Moore, 847 F.2d 1536, 1548 (11<sup>th</sup> Cir. 1988)) (internal quotation marks omitted.). If there are no specific objections made to factual findings made by the magistrate judge, there is no requirement that those findings be reviewed *de novo*. Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11<sup>th</sup> Cir. 1993). Absent objection, the district court judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge],” 28 U.S.C. § 636(b)(1)(C), and may accept the recommendation if it is not clearly erroneous or contrary to the law. Fed. R. Crim. P. 59. In accordance with 28 U.S.C. § 636(b)(1)(C), and Rule 59 of the Federal Rules of Criminal Procedure, the Court has conducted a *de novo* review of those portions of the R&R to which Defendant objects and has reviewed the remainder

of the R&R for plain error. See United States v. Slay, 714 F.2d 1093, 1095 (11<sup>th</sup> Cir. 1983).

## **II. Discussion**

In his objections, Movant simply restates, without any additional authority, the arguments made in his § 2255 Motion. [Doc. 286.] The Magistrate Judge has thoroughly explained its reasoning in recommending that each of these arguments be denied. Additionally, as the Magistrate Judge has pointed out, the same arguments were rejected by the United States Court of Appeals for the Eleventh Circuit. United States v. Bates, 960 F.3d 1279 (11<sup>th</sup> Cir. 2020). After conducting a *de novo* review of those portions of the R&R to which Movant objects and reviewing the remainder of the R&R for plain error, this Court finds that the Magistrate Judge's factual and legal conclusions are correct.

## **II. Conclusion**

Accordingly, the Court **OVERRULES** Movant's objections [Doc. 286]; **ADOPTS** the R&R [Doc. 281]; **DENIES** Movant's § 2255 Motion [Doc. 265]; and **DECLINES** to issue a certificate of appealability. The Court **DIRECTS** the Clerk to **CLOSE** the civil case associated with Defendant's § 2255 Motion: Civil

Action No. 1:21-CV-01694-ELR-CMS.

**SO ORDERED**, this 15th day of February, 2024.



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Eleanor L. Ross  
United States District Judge  
Northern District of Georgia